IN THE HIGH COURT FOR THE STATES OF PUNJUAB AND HARYANA AT CHANDIGARH

CRL.R.NO.349 of 1995

DATE OF ORDER:17.9.2007

Joginder Singh ....Petitioner

Versus

State of Haryana ....Respondent

CORAM: HON'BLE MR. JUSTICE A.N. JINDAL

Present: Mr. Brijeshwar Singh Kanwar, Advocate,
for the petitioner as Amicus Curiae.
Mr. K.S. Godara, DAG, Haryana.

A.N. JINDAL,J.

Assailed in this revision is the judgment dated 4.5.1995 passed by Sessions Judge, Kurukshetra, dismissing the appeal of the petitioner against the judgment dated 27.7.1994, passed by Chief Judicial Magistrate, Kurukshetra, convicting the accused-petitioner under Section 279/304 A IPC and sentencing him as under:

U/s 279 IPC	To undergo rigorous imprisonment for six months.
U/s 304-A IPC	To undergo rigorous imprisonment for one year and to pay a fine of Rs. 400/-.

However, both the sentences were ordered to run concurrently.

The factual matrix of the case is that on 6.5.1989, Complainant Niranjan Ram along with Jeet Ram, both residents of Kalyana, was going towards village Mohri on the respective bicycles. At about 6:30 p.m, the petitioner while driving his Maruti Van bearing No. PCF-2950 in a rash and negligent manner came from the Shahabad side i.e. Ambala side. In the mean time, a scooter also came from Ambala side, which was being driven by the deceased. The petitioner while driving the Maruti Van in rash and negligent manner struck against the scooterist, as a result of which the scooterist fell down on the road and succumbed to his injuries. On the statement of Niranjan Singh PW2 Ex. PF, a case was registered against the

petitioner. Investigation was commenced. On completion of investigation, the challan was presented against the petitioner under Sections 279, 304-A,336 and 337 IPC to which he pleaded not guilty and claimed tiral.

In order to substantiate its case, prosecution examined 11 witnesses. They are Man Singh mechanic PW1, Shri Niranjan Singh PW2, Jeet Ram, Chowkidar,PW3, Balak Ram photographer PW4, Mahender Pal PW5, Vinod Kumar PW6, Sant Ram PW7, Balwan Singh Constable PW8, Dr. Suresh Kumar PW9, Rattan Singh ASI PW10 and Pala Ram Assistant Sub Inspector PW11.

When examined under Section 313 Cr.P.C. the petitioner denied all the incriminating circumstances appearing against him and pleaded his false implication.

The trial ended in conviction. The appeal was also dismissed.

The only contention raised by learned counsel for the petitioner is that accident had taken place in the middle of the road, therefore, the petitioner cannot be said to be rash and negligent rather the liability in this accident could be fastened upon the scooterist .

Having perused the records of the case, it transpires that both the Courts below have concurrently held the responsibility of the petitioner in committing the crime and no such illegality or infirmity has been pointed out in conducting the trial or judgments. Both the Courts have rightly appreciated the evidence brought on record in order to establish that the petitioner was driving his Maruti Car in a rash and negligent manner and while going on wrong side, he had hit the scooterist. The evidence of PW3 depicts the scenario of the place where the accident had taken place. It is also in evidence that it was a national highway so wide to accommodate three vehicles at a time. Even if the scooterist had come in the middle of the road, then, the petitioner could avoid the accident by taking necessary steps. The plea raised by the accused remains unsupported by any cogent evidence.

Now coming on the quantum of sentence, it has been pointed out that the petitioner has already under gone 19 days of the substantive sentenc. The occurrence took place in the year 1989 and the proceedings against him are pending since then. He has faced a lot of agony due to the protracted proceedings. The longevity of the case for the last 12 years may

not be sufficient ground to condone the sentence passed by the trial Court as a whole, yet that can be treated as mitigating circumstance to take a lenient view in his favour.

Taking conspectus of the aforesaid circumstances, the ends of justice would be met if the sentence suffered by him is reduced to the period already undergone. However, the loss could be compensated in the terms of money.

For the forgoing reasons, the petition is dismissed with the modification in the sentence so as to reduce the same to the period already undergone. However, the petitioner is directed to pay a fine of Rs.25,000/- on account of compensation to the LRs of the deceased in addition to any other compensation to which they may be entitled or have received.

Mr. Brijeshwar Singh Kanwar, Amicus Curiae may claim remuneration as per rules.

17.9.2007 (A.N. JINDAL)
rajeev JUDGE

To be referred to reporter : Yes/no